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George H. Corn, County Attorney
Ravalli County Courthouse
205 Bedford, Suite C
Hamilton, MT 59840

Ravalli County Commissioners

FILED
DEBBIE HARMON, CLERK

FEB 06 2007

Attorney for Ravalli County

**MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT
RAVALLI COUNTY**

GARY G. SHATZER,

Plaintiff,

vs.

LEE GRYMES and PATSY J.
BUSENBARK,

Defendant.

)

) Cause No. DV 06-76

)

) Hon. James A. Haynes

) Dept. 2

)

) **SPECIAL APPEARANCE OF RAVALLI
COUNTY**

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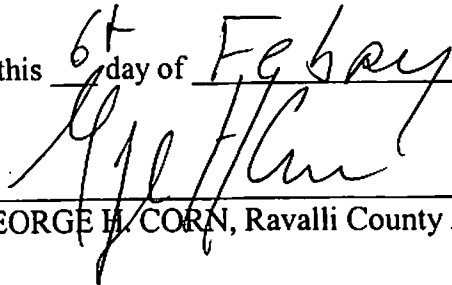
COMES NOW Ravalli County, by and through counsel, and enters this special appearance pursuant to §76-3-201(2), MCA.

Ravalli County's written comments regarding the proposed division of land are attached hereto as Exhibit "A" and are submitted for the Court's consideration in this matter.

In addition to the comments attached, Ravalli County requests that the Court note in its final Order or Judgment that the Court-ordered division of land remains subject to the requirement for certification of payment of all outstanding property taxes per §70-21-213, MCA.

Ravalli County further requests that the parties be ordered to pay a fee of \$200 to the Ravalli County Planning Department for its review of this matter, consistent with §§76-3-201(4), MCA.

RESPECTFULLY SUBMITTED this 6th day of February, 2007.



GEORGE H. CORN, Ravalli County Attorney

CERTIFICATE OF SERVICE

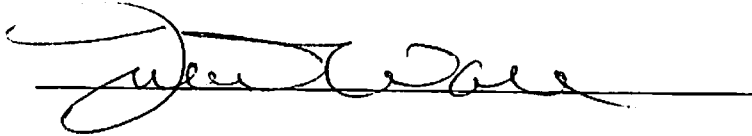
This is to certify that true and correct copies of the foregoing document were served upon the following persons on this 12 day of February, 2007, as follows:

(X) by placing a true and correct copy in the U.S. Mail addressed to attorney for Plaintiff and other parties as follows:

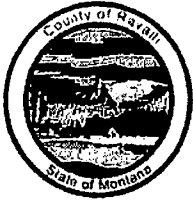
Gary G. Shatzer
Attn: Lawrence D. Johnson
345 West Main Street
P.O. Box 500
Hamilton, MT 59840

Lee Grymes
458 Westside Road
Hamilton, MT 59840

Patsy J. Busenbark
508 Westside Road
Hamilton, MT 59840



cc: Ravalli County Commissioners
Ravalli County Planning Department



Planning Department
215 South 4th Street; Suite F
Hamilton, MT 59840
Phone 406.375.6530
Fax 406.375.6531
khuches@ravallcountv.mt.gov

OG-07-02-133

January 05, 2007

Lawrence D. Johnson
Attorney at Law
345 West Main St. – PO Box 500
Hamilton, MT 59840

Re: Shatzer vs. Grymes and Busenbark Court Ordered Division, Cause No. DV 06-76

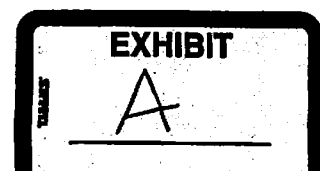
Dear Mr. Johnson,

My office has been provided with a preliminary Certificate of Survey (COS) depicting a proposed Court-Ordered division of the Shatzer, Grymes, and Busenbark property, as well as the court ordered partition dated January 4, 2007. Ravalli County greatly appreciates the Court's willingness to include the Planning Department in this early review opportunity.

The property may be currently zoned under the interim zoning regulations adopted through ballot initiative which requires a residential density of one dwelling unit per two acres. It is not located in a voluntary zoning district. The Ravalli County Subdivision Regulations are applicable in the area. An exemption to the regulations is being requested under Section 4-4-2 (Qualified Exemptions – Order of a Court) by the current property owners.

The Planning Department can generally support the proposed land division and the following comments are offered for the Court's consideration:

1. Written confirmation, from the Environmental Health Department, that each lot meets or exceeds local and State Department of Environmental Quality (DEQ) standards for wastewater treatment and potable water (wells) should be obtained. You may also wish to consider conditioning your approval on the property owner(s) obtaining DEQ approval, which is consistent with SB 290; a law passed in 2005 amending 76-3-604 MCA.
2. Further development of the properties should include, when appropriate, access permits from the road department, additional structures requiring wastewater treatment facilities exemption application, subdivision exemption application, floodplain analysis, and/or subdivision review.
3. Staff recommends that the filed plat provide an appropriate easement to allow for ingress and egress to the parcel described in COS 3585.
4. The subject property is located approximately 200 feet from the FEMA mapped 100-year floodplain. Any work proposed in or near the floodplain may be subject to the effective Ravalli County Floodplain Regulations.



5. Any future modifications to Roaring Lion Creek may require permits as necessary from the Bitterroot Conservation District, DNRC – Water Resources, Army Corps of Engineers, and/or others.
6. Water rights and irrigation practices are routinely subject to intense public debate in Ravalli County's subdivision hearings. Water rights, if any, should be transferred and used on the parcels in order to help protect area water users while guaranteeing access to water on each tract of land. A master irrigation plan addressing water distribution among the two lots should be filed with the COS, if needed. Allocation of water should be a part of this master irrigation agreement. All irrigations ditches located on the property, if any, should be shown on the COS with a 10-foot easement (5-foot on either side of the ditch) for maintenance purposes.
7. The Planning Department requests a processing fee of \$200.00 to help cover the costs involved in the review and recommendations regarding this proposal. My office is grateful for the assistance of the property owners to help defray the costs to county taxpayers for the staff time and materials that were required for the project. Your inclusion of this fee in a Court-Ordered split will provide my office with the ability to continue to review these types of proposals to help insure the reasonable health, safety, and welfare of all county residents.

Again, thank you for the opportunity to review this proposed Court-ordered division of land. If you have any questions, please contact me at your convenience.

Sincerely,


Karen Hughes, Planning Director

Cc: George Corn
Clerk and Recorder

Attachments